

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

In re:

CIRCUIT CITY STORES, INC., et al.,

Debtors.

(Chapter 11 Case)

No. 08-35653 (KRH)

(Jointly Administered)

**DE RITO'S RESPONSE IN OPPOSITION
TO DEBTORS' TWENTY-SECOND
OMNIBUS OBJECTION TO CLAIMS**

[DOCKET #3710]

Hearing time: 11:00 a.m.

Hearing date: July 23, 2009

De Rito Partners Development, Inc., on behalf of De Rito Pavilions 140, LLC (store #437) 8929 East Indian Bend Road, Scottsdale, AZ ("De Rito") respectfully opposes the Debtors' Twenty-Second Omnibus Objection to Claims, filed at docket #3710, as it pertains to De Rito's Claims. This response is supported by the following:

1. De Rito filed its claim in Circuit City Stores, Inc., 08-35653, claim #4911, asserting that Circuit City Stores, Inc., was liable for lease damages. See Attached **Exhibit 1**.

The claim arises out of a lease dated May 24, 1989, executed by Circuit City Stores, Inc.

De Rito incorporates claim #4911 and its exhibits in this response.

2. De Rito filed its claim in Circuit City Stores West Coast, Inc., 08-35654, claim #4863 asserting that West Coast was liable for lease damages. See attached as **Exhibit 2**. The

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claim arises out of the same lease dated May 24, 1989, executed by Circuit City Stores, Inc. De Rito incorporates claim #4863 and its exhibits in this response.

3. Both claims are in the amount of \$594,334.52.

4. The obligations under the lease were assigned from Circuit City Stores, Inc., to Circuit City Stores West Coast, Inc., without release, so claims are filed in both the Circuit City Stores, Inc and Circuit City Stores West Coast Inc. proceedings. The Assignment and Assumption of Lease is attached to both claims Exhibit A-2.

5. Under the terms of the Lease Agreement and the Assignment and Assumption of Lease, both Debtors are liable for the obligations under the Lease Agreement.

6. De Rito acknowledges that it may not receive more than the amount claimed due, i.e. \$594,334.52, plus interest and fees as applicable. However, as the estates are being administered separately, De Rito is entitled to assert its claims in both bankruptcy proceedings as both Estates are liable under the pertinent agreements with De Rito.

7. Debtors' statements, "By this objection, the Debtors have solely identified any potential liability as to the only potential Debtor entity" (page 2 ¶16) and "The Debtor entity against which the Claims listed under 'Claim to be Disallowed' listed on Exhibit C has no possible liability on account of such claim." (pages 2-3, ¶17) are therefore unavailing.

WHEREFORE, De Rito respectfully requests that the objection as to De Rito's claim #4863 be denied, and that claim #4863 and #4911 be allowed as filed, and further requests such relief as the Court deems appropriate.

Dated: June 30, 2009

CHRISTIAN & BARTON, LLP

/s/ Jennifer M. McLemore

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CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of June, 2009, I caused a copy of the foregoing to be served by electronic means on all parties in interest registered in the Court's ECF system.

/s/ Jennifer M. McLemore

Jennifer M. McLemore

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